

PROTEST OF THE PRESIDENT AGAINST CERTAIN PROCEEDINGS OF THE HOUSE OF REPRESENTATIVES.

APRIL 9, 1860.—Ordered to be printed.

APRIL 10, 1860.—The further consideration of the subject postponed till Monday next, April 16.

Mr. HICKMAN, from the Committee on the Judiciary, made the following

REPORT.

The Committee on the Judiciary, to whom was referred the special message of the President of the United States to the House of Representatives, beg leave to submit the following report:

On the 5th day of March last Hon. John Covode, a representative in Congress from the State of Pennsylvania, submitted, and the House of Representatives adopted, the following resolutions:

“*Resolved*, That a committee of five members be appointed by the Speaker for the purpose of investigating whether the President of the United States, or any other officer of the government, has, by money, patronage, or other improper means, sought to influence the action of Congress, or any committee thereof, for or against the passage of any law appertaining to the rights of any State or Territory; also to inquire into and investigate whether any officer and officers of the government have, by combination or otherwise, prevented and defeated, or attempted to prevent or defeat, the execution of any law or laws now upon the statute books, and whether the President has failed or refused to compel the execution of any law thereof; that said committee shall investigate and inquire into the abuses at the Chicago and other post offices, and at the Philadelphia and other navy yards, and into any abuses in connexion with the public buildings and other public works of the United States.

“*And resolved further*, That as the President, in his letter to the Pittsburg centenary celebration of the 25th November, 1858, speaks of the employment of money to carry elections, said committee shall inquire into and ascertain the amount so used in Pennsylvania, and any other State or States; in what districts it was expended, and by whom and by whose authority it was done, and from what source the money was derived, and to report the names of the parties implicated; and that for the purpose aforesaid, said committee shall have power to send for persons and papers, and report at any time.”

The message comes as a protest against this action of the House. The President complains that he has been “abused,” and that the consti-

tutional rights and immunities of the Executive have been violated in his person. The material positions assumed in the communication are substantially embraced in the following propositions:

1. That the House of Representatives possesses no power under the Constitution, except as an impeaching body, to accuse the President of the United States, or any other officer of the government.

2. That the first recited resolution is an accusation of high crimes and misdemeanors against the President, and that his accuser has been constituted one of his judges.

3. That the charge is too vague and general.

4. That there is danger under such a precedent of an aggrandizement of the legislative, at the expense of the executive and judicial departments.

In consideration of the high source from which the manifesto proceeds, the committee prefer to confine themselves to an examination of the postulates of the paper, however obnoxious to criticism its general tone may be on the score of taste and temper. But they cannot restrain an expression of their deep regret that an officer who prides himself upon the fact that "the people have thought proper to invest him with the most honorable, responsible, and dignified office in the world," and who declares he feels "proudly conscious there is no public act of his (my) life which will not bear the strictest scrutiny," and that he defies "all investigation," should forget, amid the surroundings of place, and power, and flattery, that he is but the servant of that same people, and that he should shrink back in anger or terror from a simple inquiry into his stewardship. This is the first time under the republic a Chief Executive has left a recorded admission that he has been made oblivious of the origin and ephemeral character of his position by the revelries of its enjoyment. To distinguish such conduct by approbation would be to sanction kingly prerogative, and to proclaim that rightful rule came "by the grace of God," and not from the confidence of men. The nation, always charitable in the interpretation of acts and motives, is not prepared to overlook such a delinquency.

The President of the United States, under the Constitution, possesses neither privilege nor immunity beyond the humblest citizen, and is less favored in this respect than senators and representatives in Congress. Article 1, section 6, reads: "They (the senators and representatives) shall, in all cases except treason, felony, and breach of the peace, be privileged from arrest during their attendance at the session of their respective houses, and in going to and returning from the same." No such exemption is made in behalf of the Executive or any other officer of government. The conduct of the President is always subject to the constitutional supervision and judgment of Congress; whilst he, on the contrary, has no such power over either branch of that body. He is left, under the law, without shield or protection of any kind, except such as is borne by all. He is as amenable for all his acts after inauguration as before. He can make no plea which is denied to any other citizen, and is subject to the same scrutiny, trial, and punishment, with the proceedings, hazards, and penalties of impeachment superadded. The President and the citizen

stand upon equality of rights. The distinction between them arises from an inequality of duties. Wherever the conduct of the latter is open to inquiry and charge, that of the former is not the less so. The President affirms, with seeming seriousness, in comparing himself with the House of Representatives, that, "as a co-ordinate branch of the government, he is their equal." This is denied in emphatic terms. He is "co-ordinate" but not coequal. He is "co-ordinate," for he "holds the same rank," but he is not coequal, for his immunities and powers are less. The members of the House may claim a privilege, whether right or wrong, which he cannot, and the executive or law-executing power must always be inferior to the legislative or law-making power. The latter is omnipotent within the limits of the Constitution; the former is subject not only to the Constitution, but to the determinations of the latter also. To repeat the point: the President is not, in any respect, superior to the citizen, merely because he is bound to discharge more numerous duties; and he is not coequal with that branch of government which helps to impose and define those duties. The fact that he holds a limited veto over the legislation of Congress cannot affect the soundness of the views here briefly presented. His claim to "legislative capacity," in other words, to possess legislative power, will scarcely be conceded in view of article 1, section 1, of the Constitution, declaring that, "All legislative powers herein (therein) granted shall be vested in a Congress of the United States, *which shall consist of a Senate and House of Representatives.*"

The President, it will be observed throughout his message, assumes that the resolution to which he makes reference charges him with the commission of high crimes and misdemeanors. This was necessary to the argument he has advanced. It is for such charges only the House has the power of impeachment. The *gravamen* of his complaint is, that the accusations are of such a nature as, if true, would subject him to an impeachment, and that the House has proceeded to pass upon them, or is moving to pass upon them, through a form of proceeding not authorized by the Constitution. Herein lies the fallacy, and that, which, unexposed, might operate as the deception of the plea. If this were, in truth, a charge against the President, calling for the form of trial prescribed by the Constitution, then the determinations of this House might possibly be open to animadversion. Unfortunately, for the attempted defence of that officer, there is no charge made of any grade of offence calling for trial of any kind. It is a mere *inquiry* that is proposed. The language of the resolution may be cited as the best proof. The committee raised is "for the purpose of *investigating* whether the President of the United States, or any other officer of the government has, by money, patronage, or other improper means, sought to influence the action of Congress, or any committee thereof," &c.; also "to *inquire into and investigate* whether any officer and officers of the government have, by combination or otherwise, prevented and defeated, or attempted to prevent and defeat, the execution of any law or laws," &c.; and "whether the President has failed or refused to compel the execution of any laws," &c. If no criminality is alleged, but, on the contrary an *investigation or inquiry*, alone is pro-

posed, the question may be asked, with ruling force and emphasis, what has the House to do with the law of impeachment? The resolutions do not contemplate a judgment, and therefore there can be no formal trial under them. But, admit charges proper for impeachment were made, would the House be bound to submit the matter to any particular committee and allow the accused a cross-examination, as the President seems to suppose? By no means! The Constitution prescribes no rules for the House, but it is left perfectly free to adopt its own. It may refer the charges to a standing committee, or a select committee, or it may proceed without the intervention of either. It may allow cross-examination, or deny it, as to its members may seem most proper at the time. The precedent set in the case of Judge Peck, upon which great stress is laid, cannot take away the full discretion allowed by the Constitution, nor make the law either shorter or narrower than it is written. In such a case each House of Representatives will determine for itself its mode of procedure without suggestions from a "co-ordinate," and rely upon the highest law as its charter. There is no judge presiding over the representatives of the sovereign people of the sovereign States to teach and inculcate legal proprieties. When they shall permit even the President to do so, then there will be a law superior to the Constitution, and a discretion locked in chains.

The resolution of the Senate of the 28th of March, 1834, upon which the President seemingly had his eye in the preparation of his protest, presents a case very different from the present one. That body resolved as follows:

"That the President, in the late executive proceedings in relation to the public revenue, has assumed upon himself authority and power not conferred by the Constitution and laws, but in derogation of both."

The complaints made by President Jackson to this proceeding were, that the acts charged upon him constituted one of the highest crimes which that officer can commit, impeachable from its very nature. That the Senate, as his constitutional judges in such a case, not only accused, but found him guilty of the charge, without any opportunity on his part to defend himself. And Mr. Buchanan, January 16, 1837, speaking on the subject, declared that the Senate had transcended its constitutional power because the resolution charged an impeachable offence against the President. That criminal intent was involved in the charge, as it was to be presumed, from an illegal or criminal act.

The resolutions of the House, on the contrary, do not even imply censure, much less pass judgment. They propose an examination merely, such as may be instituted by any member of society against any other member of society, to test informally either honesty or respectability. And has it ever been conceived before that such a privilege—that of inquiry—does not pertain to every human being? The fact that such investigation may lead to the conclusion that the party against whom it is brought to bear is guilty of nefarious practices cannot affect the right; it is preliminary to accusation, trial, and judgment. So here it cannot be made an objection to the action of the House that evidence may thus be found tainting the official character of any or many officers of government. If it shall be found, in

executing the command of the resolutions, that the President is open to a direct charge of high crimes or misdemeanors, it will but prove the wisdom of the proceeding. Then, and not till then, may the party sought to be implicated demand the full hearing secured to him by the Constitution. As yet he is subject to the law of the *citizen*; hereafter, possibly, he may invoke the law of the *officer*.

It is proper to make this additional remark in reference to the protest of 1834—that it was not presented to the Senate during the consideration of the resolution. It was not till after a formal determination against him that the President remonstrated. Here the interposition comes to prevent all investigation.

The President esteems it “a violation of the principles of universal justice” that the member moving the resolution should have been appointed one of the committee provided for by it. His ten years of service as a component of this body, of which he reminds us, not to speak of his protracted senatorial career, ought to have enabled him to recall to mind the precedents of Congress in such cases. This is a new and startling objection, condemning, as it does, in terms of severe reproach, a practice in legislation coextensive with our national existence. Certainly it has been the practice to appoint the mover of a special inquiry chairman of the committee raised. Mr. Cushing, in his “Law and Practice” says: “on the occasion of the appointment to prepare articles of impeachment against Lord Melville, which had been ordered on the motion of Mr. Whitbread, that gentleman was first appointed one of the committee raised.” A reason for this course is doubtless to be found in the presumption that the person proposing examination has grounds to believe it important, and is, on that account, the best qualified to conduct the proceeding.

The President likewise disapproves, in terms of severity, of the phraseology and scope of the resolution. His expression is: “It is as vague and general as the English language affords words in which to make it.” If it be true, as before urged, that there is a general right to inquire into the conduct of private citizens and public officers, which may or may not look to accusation and trial, then the remark sinks to a cavil. Under such circumstances it is not necessary to apprise the individual upon whom the inquiry bears, of either the subject or object of inquiry. The first opportunity for him to require notice is in the legal proceeding which is to end in his acquittal or condemnation. What would be thought of a rule of law requiring even a prosecutor to define his charge, and frame his indictment, without preliminary proceedings or opportunity to inform himself as to its true character? A bare suspicion would scarcely be regarded a defensive prudence. And in the case of an officer controlling millions of patronage, and an influence penetrating every city, town and hamlet of a vast country, it would be unsafe to assume informers and witnesses would volunteer against him, especially as favorites and beneficiaries would be the most likely to possess the knowledge needed in the ascertainment of the truth. For Congress to reach the conclusion to which the President would lead them, would be to practically settle forever that impeachments were obsolete, and that executive officers had the immunity of perfect irresponsibility.

Indistinctness and uncertainty must necessarily precede research. If it were otherwise, all investigation would be rendered useless. As far as bounds may be set for investigation, the resolution in question will compare favorably with that introduced into the Senate by Mr. Mason, December 5, 1859, bearing upon the invasion of Harper's Ferry. This will be readily admitted from a comparison of the two. The following is the resolution last referred to, passed by the Senate December 14, 1859, under which the mover was appointed chairman of the committee contemplated by it, and testimony is now being taken :

"Resolved, That a committee be appointed to inquire into the facts attending the late invasion and seizure of the armory and arsenal of the United States at Harper's Ferry, in Virginia, by a band of armed men, and report—

"Whether the same was attended by armed resistance to the authorities and public force of the United States, and by the murder of any of the citizens of Virginia, or of any troops sent there to protect the public property ;

"Whether such invasion and seizure was made under color of any organization intended to subvert the government of any of the States of the Union ; what was the character and extent of such organization ; and whether any citizens of the United States not present were implicated therein, or accessory thereto, by contributions of money, arms, munitions, or otherwise ;

"What was the character and extent of the military equipment in the hands or under the control of said armed band ; and where, and how, and when the same was obtained and transported to the place so invaded ;

"That said committee report whether any and what legislation may, in their opinion, be necessary on the part of the United States for the future preservation of the peace of the country, or for the safety of the public property, and that said committee have power to send for persons and papers."

Could there well be a more limitless field for experiment ? It covers every foot of the country, if not the earth, and lays open every act and motive of every citizen of the United States to analysis, comment, and exposure. It is not deemed necessary to extend remark, as it is sufficient for the argument to propound the question : Where is to be found the doctrine of jurisprudence, or justice, or propriety which subjects the every-day life of every merchant, farmer, artisan, and laborer to such a test, and protects their servant, the President, from it ?

Article 2 section 1 of the Constitution declares "the executive power shall be vested in a President of the United States of America." There is but one executive head or fountain, and but one executive responsibility, as there is but one legislative head, and one legislative responsibility. The President admits the propriety of inquiry by the Senate or the House into the conduct of his subordinates, but denies that his liability is as great as theirs. The accepted teachings of the executive, judicial, and legislative branches of the government are the opposite of this.

President Jackson, in his message of April 21, 1834, to the Senate,

explanatory of his protest of the 18th of April of the same year says: "Nor do I claim the right in any manner to supervise or interfere with the persons intrusted with such property or treasure, (the public money and property of the United States,) unless he be an officer whose appointment is, under the Constitution and laws, devolved upon the President alone, or in conjunction with the Senate, and for whose conduct he is constitutionally responsible."

President Polk, of whose cabinet Mr. Buchanan was a member, during the 1st session of the 29th Congress, used this language: "If the House of Representatives, as the grand inquest of the nation, should at any time have reason to believe that there had been malversation in office by an improper use or application of the public money by a public officer, and should think proper to institute an inquiry into the matter, all the archives and papers of the Executive department, public and private, would be subject to the inspection and control of a committee of their body," &c. The rulings of the Supreme Court have been in the same direction. In the cases of *Wilcox vs. Jackson*, and *Williams vs. United States*, it was decided that the law devolving particular duties upon the President, by name, was fulfilled by the discharge of those duties by his subordinates, on the ground that these subordinates were instruments through whom he acted and spoke. It can certainly not be necessary to transcribe what appears throughout the Journals of Congress, that each House has continually claimed and exercised the necessary power of inspecting, inquiring into, and supervising the different executive departments and operations of the government. If it be true that the close and intimate connexion insisted upon, exists between the President and others appointed by him and exercising executive trusts, the reason is not manifest why the management of the one should not be made as plain and patent as the other. The most rational and plausible conclusion at least would be that the pretentious tenets of the protest have been seriously weakened, if not destroyed, by the force of its admissions.

The necessity for the full and unrestricted exercise of the power in question is so overruling as to prevent its surrender:

1. With a view to impeachment.
2. For the purpose of legislation.
- 3 To protect the privileges of Congress.

The constitutionality, the legality, and the authorized expediency of the inquiry proposed by the resolutions being, as is believed, amply vindicated, no question remains in respect to it, except such as might address itself to the discretion of the House. If, by the proceedings to remedy a mischief, a greater mischief would be likely to follow, then a well-regulated prudence would indicate its abandonment. The President in his protest suggests such a danger, and rests his resistance upon it. It is thus expressed: "The whole proceeding against him justifies the fears of those wise and great men who, before the Constitution was adopted by the States, apprehended that the tendency of the government was to the aggrandizement of the legislative at the expense of the executive and judicial departments." If, indeed, fears of legislative aggrandizement should ever have existed, the cause of those fears is left in great obscurity. The history of the Consti-

tution, through all the stages of its formation, its adoption by the several States, and the conspicuous differences between the great political parties at the time, would seem to deny the existence of any such apprehension. The strong sentiment of the democratic party through its whole struggle with the federalists, until the election of Jefferson, was directly the reverse of the President's statement. In the convention which formed the Constitution, jealousy of the executive branch of the proposed government was as great, even, as the kindred jealousy against the probable encroachments of the federal government upon the independence and sovereignty of the separate States. In that body it was even proposed that the Executive should be removable by the legislature, without impeachment or conviction of high crimes and misdemeanors. As a further manifestation of that feeling, it was proposed that the Executive should be plural. Madison and Randolph urgently supported it as a measure of protection against the aggressions of the Chief Magistrate upon the rights of the co-ordinate branches of the government. Mr. Randolph, (governor of Virginia, and Attorney General under Washington,) speaking upon this subject, said: "The situation of this country is peculiar; the people are taught aversion to monarchy; all the constitutions are opposed to it: Why cannot three execute?" The ineligibility of the Executive after one term was also insisted upon, as a necessity to prevent usurpation. Jefferson declared his wish to be that the President should be elected for seven years, and be ineligible afterwards. Mr. Randolph also made use of this remarkable expression: "The Executives may appoint men devoted to them, and even bribe the legislature." Hamilton, after the adoption of the article of the Constitution relating to the Executive, addressing Governor Lewis, used a still more striking expression: "You nor I, my friend, may not live to see the day, but most assuredly it will come, when every vital interest of the state will be merged in the all-absorbing question of who will be the next President." So numerous are the proofs that the "wise and great men" of our earlier history entertained forebodings of the very opposite character to those which the President ascribes to them, that it is difficult to resist a disposition to attribute insincerity to the President to accomplish the purposes of his protest. The suspicion on the part of the people has become so great that they are continually reducing executive power. In many of the States the governor has become but a mere chief of police. This is not, however, to be attributed to legislative or judicial agency, but to the fact that chief executives so use their patronage as to produce a tendency to a centralization of power dangerous to the liberties of the people. The world is but a great battle-field for power; and if universal history teaches any lesson, it is this: that "power is always stealing from the many to the few;" that executive heads of nations absorb popular rights; and that all revolutions are on the part of the people, not to establish thrones, but to regain that which has been wrested from them by the throne. The citizen of the United States has reason to fear that which every other nation has suffered.

The committee, entertaining the views herein expressed, recommend the adoption of the following resolution:

Resolved, That the House dissents from the doctrines of the special message of the President of the United States of March 28, 1860;

That the extent of power contemplated in the adoption of the resolutions of inquiry of March 5, 1860, is necessary to the proper discharge of the constitutional duties devolved upon Congress;

That judicial determinations, the opinions of former Presidents, and uniform usage sanction its exercise; and,

That to abandon it would leave the executive department of the government without supervision or responsibility, and would be likely to lead to a concentration of power in the hands of the President, dangerous to the rights of a free people.

MINORITY REPORT.

Mr. HOUSTON presented the following minority report :

The undersigned member of the Judiciary Committee, to whom was referred the message of the President of the United States to the House of Representatives of the 28th March, 1860, having failed to agree with the majority of said committee, asks to submit the following as his report :

The framers of the Constitution of the United States have thought proper to confide to all the departments of the government the maintenance of the national honor and dignity, not only that confidence in our institutions may be thereby maintained at home, but that the position of our government amongst the nations of the earth may be in nowise impaired. And in depositing such trust, they have not omitted to place proper and just limitations upon the powers of each, in order that it may effectually combine with the others for the accomplishment of the end in view, and at the same time not encroach upon them. Thus is produced that equilibrium so necessary to harmony and efficiency, and which cannot be seriously disturbed without endangering the success of the whole plan.

"It is important, likewise, that the habits of thinking in a free country should inspire caution in those intrusted with its administration, to confine themselves within their respective constitutional spheres, avoiding, in the exercises of the powers of one department, to encroach upon another. The spirit of encroachment tends to consolidate the powers of all the departments in one, and thus to create, whatever the form of government, a real despotism. A just estimate of that love of power and proneness to abuse it which predominates in the human heart is sufficient to satisfy us of the truth of this position. The necessity of reciprocal checks, in the exercise of political power, by dividing and distributing it into different depositories, and constituting each the guardian of the public weal against invasions by the others, has been evinced by experiments, ancient and modern—some of them in our own country and under our own eyes. To preserve them must be as necessary as to institute them. If, in the opinion of the people, the distribution or modification of the constitutional powers be in any particular wrong, let it be corrected by an amendment in the way which the Constitution designates. But let there be no change by usurpation ; for though this, in one instance, may be the instrument of good, it is the customary weapon by which free governments are destroyed. The precedent must always greatly overbalance in permanent evil any partial or transient benefit which the use can at any time yield."—*Washington's Farewell Address.*

The undersigned regards it as a high and important duty of the House of Representatives to ferret out abuses and errors in the administration of the government, if abuses and errors exist, with a view as well to the punishment of the guilty as of providing a remedy by the enactment of such legislation as may be necessary to prevent their recurrence.

In the discharge of that duty, however, the House of Representatives should conform its action to the limitations and requirements of the Constitution. And while it has been the practice of the House to

give to such investigations much latitude when proposed in good faith, it is alike due to justice, to the dignity of the House, to the character of our government at home and abroad, that such action shall not be taken for purposes of oppression or for mere party advantages; that such movements shall not be made for the purpose of throwing discredit upon an Executive by encouraging or entertaining vague and slanderous imputations founded upon street rumors or irresponsible newspaper articles. That it has been so used as to amount to an abuse may with confidence be asserted, and the present case is one which should admonish the House that there is a possibility that these occasions, occurring so frequently of late, may already have done much, and may still do more, to weaken the confidence of the country in, and its respect for, the legislative as well as the other departments of the government. Congress should maintain its own dignity; but the most effectual mode of doing so is not by continued assaults upon other departments, or upon citizens of the country in public or private life. It weakens its own influence by the frequency and cheapness of these assaults, thus inviting assaults back again upon itself, and consequently impairing its capacity for good. In the language of the "father of his country," "but let there be no change by usurpation; for though this, in one instance, may be the instrument of good, it is the customary weapon by which free governments are destroyed. The precedent must always greatly overbalance in permanent evil any partial or transient benefit which the use can at any time yield."

By the Constitution of the United States the Executive is a separate, co-ordinate department of the government. The powers, duties, and responsibilities of the President are plainly and distinctly set forth in that instrument. His duties are executive, with legislative functions to the extent of his approval of bills passed by the two houses of Congress, which, in the contingency of his disapproval, do not become laws until again passed by a vote of two-thirds of each house.

The House of Representatives is one branch of the legislative department, whose concurrence with the Senate is essential to the enactment of a law. The Constitution makes the House the judge of the elections, returns, and qualifications of its own members; gives it the power to determine the rules of its proceedings, to "punish its members for disorderly behavior, and, with the concurrence of two-thirds, to expel a member." The departments of the government—executive, legislative, and judicial—are independent of each other, excepting in the cases in which by the terms of the Constitution it is declared otherwise. The President may be impeached by the House of Representatives, but must be tried by the Senate. The Senate has no power to institute an impeachment. By the provisions of the Constitution the House has "the sole power of impeachment," and the Senate "the sole power to try all impeachments." The same particularity marks the Constitution throughout in its distribution of powers between the different departments, which is also true of its distribution between the two branches of the legislative department.

The Senate cannot judge of the elections, returns, or qualifications

of the members of the House of Representatives. Nor can the House of Representatives so judge of the members of the Senate. Neither body has a right to expel a member of the other, or to punish such member for disorderly behavior in the house of which he is a member. The framers of the Constitution deemed it unwise to confer such power.

The undersigned does not claim for the President exemption from responsibility. The Constitution marks his responsibilities, and also devolves upon him many duties and obligations. He is bound to see that the laws are faithfully executed, and is sworn to preserve, protect, and defend the Constitution of the United States; and many other duties are enumerated in the Constitution. He is also liable to impeachment by the House of Representatives.

Article two, section four, of the Constitution provides: "The President, Vice-President, and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors;" and, as has been stated in a preceding part of this report, the Constitution gives to the House the power of impeachment, but to the Senate the power to try impeachments; and the undersigned states with much confidence that there is no mode known to the Constitution by which either house of Congress has the power to inflict a punishment upon the President except the one of impeachment, as set forth in that instrument.

It is asserted that as the House of Representatives can examine into the conduct of its own members, and signify its disapprobation of such conduct by way of punishment, it has alike the constitutional authority to do the same as to the President or any civil officer of the United States. It is freely and fully conceded that the House may examine into any abuses or alleged abuses in the administration of the government for the purpose of bringing to punishment any civil officer of the United States who has been guilty of high crimes and misdemeanors, or of providing a remedy for what the legislature may regard as a defect in the existing laws. It is made the duty of each house of Congress to consider of, and act upon, legislative propositions, either to enact new laws or to amend or repeal old ones; and in discharging that duty, either can institute an investigation to learn the character, cause and extent of the evil which is proposed to be remedied; and in such examination the conduct of any officer of the government, high or low, that may have reference to such legislation, may be investigated, and the result reported to the house ordering the committee. But the proper limit upon even this power is, that it must be necessary to enable the house the better to perform its legislative duty.

Nor does the President in his message deny or controvert this proposition; on the contrary, he affirms it. And in such investigation the undersigned feels warranted in saying that every facility would be afforded a committee of either house to probe to the bottom any defects or abuses that might be alleged to exist.

The message also states that the power of the House to examine into charges against the President with a view to punishment, which can only be by impeachment, is unquestioned and ample.

The Constitution gives the House of Representatives the power to judge of the conduct of its own members, and punish them for disorderly behavior. It gives no such power over the President. True, it may impeach him for "treason, bribery, or other high crimes and misdemeanors," but it can impeach him for nothing else. Any behavior of the President, however disorderly, does not furnish grounds for his impeachment, unless it come within the provisions of the Constitution; and hence the House has no authority to punish him for it.

The correctness of this position was admitted in the debate in the House on the day the message was received, as the following extract will show:

"If this House proposed an impeachment of the President by one of its committees, the President's view would be correct. They have no power to do such a thing as that. They must present their impeachment, and the Senate must try it, if they propose to impeach the President. But the question whether or not improper influences have been used by anybody to affect the legislation of the country is a proper subject for inquiry and investigation by the representatives of the people. It carries with it no penalty or the infliction of punishment."—*Mr. Grow.*

This extract is reproduced for the purpose of distinctly marking the admissions contained on it; the latter branch of it will be referred to again in this report. The Speaker fully admits that there is no constitutional mode of punishing the President except by impeachment. Observe his language: "If this House proposed an impeachment of the President by one of its committees, the President's view would be correct." But his argument is understood as intending to show that the proceeding under Mr. Covode's resolution is not an impeachment, but a mere investigation, to see whether improper influences have been used to affect legislation, which he says carries with it "*no penalty or the infliction of punishment.*"

In view of such admissions, a question very naturally arises as to the import of the term "*punishment.*" Happily, however, the House, by its uniform practice, has furnished the answer. The Constitution gives to the House of Representatives the power to "*punish its members for disorderly behavior;*" and in the exercise of that power it has given its understanding of that term, and has, in more instances than one, inflicted *punishment* upon a member by disapprobating his conduct. The Constitution does not define what punishment the House may inflict upon its members, except in one instance, when it provides that, with the concurrence of two-thirds, it may expel a member. The House was left to construe the term *punish*, as well as its powers under that term, and in the cases in which it has inflicted a punishment upon its members it has employed different modes of expression. In the case of Joshua R. Giddings, of Ohio, the House passed the following resolution:

"*Resolved*, That this House hold the conduct of the said member as altogether unwarranted and unwarrantable, and deserving the severe condemnation of the people of this country, and of this body in particular."

Here Mr. Giddings *was punished by the House.* Other analogous cases might be referred to, but it is regarded as quite unnecessary to

specify them, as the proposition seems too clear for controversy or doubt. The House, then, has fully settled that its *censure or disapprobation is a punishment*. It matters not in what language the disapprobation may be expressed, or in what terms it may be made known. Any formal resolve of the House for the *mere purpose* of expressing its disapproval of the conduct of a member or of an officer is a punishment.

Not only is it a punishment to vote a censure upon an officer—to condemn his conduct as such, but it is also a punishment, and a harsh one, to allow *vague and indefinite* charges to be *insinuated* against him, based upon no responsible statement; to have them referred to an *ex parte* committee for a *pretended* investigation, and allow that committee, composed in its majority of the most bitter and implacable enemies and persecutors of such officer, performing more nearly the duties of prosecutors than of judges, to report whatever *ex parte* evidence they may chance to procure. Such committee, instead of holding the scales in a fair balance, with a view to the ends of justice, will be far more likely to hunt up from the dregs of society disappointed seekers for place and for jobs, who have by profligate conduct rendered themselves bankrupt in purse and in character, and who seek revenge upon the officer and of such men make witnesses, and examine them in secret, without even the knowledge of the accused officer, report such swearing to the House, put it upon the records of Congress, and dignify it by calling it the report of a committee. Having given the accused officer no opportunity to be heard, not even to cross-examine the witnesses, and as if fearful that he might in some subsequent stage of the proceedings have an opportunity to make his defence, it is gravely suggested in argument that there the matter would be allowed to rest.

Any one, with a proper care for his own honor or reputation as a citizen or an officer, must regard it as a severe punishment thus to have obloquy cast upon him by those who deny him all right or opportunity of defence.

The executive and judicial departments, in the matter of impeachment, stand in the same relation to Congress. The same clause of the Constitution conferring the power to impeach the President, also confers the power to impeach the judges. The House of Representatives, then, has the sole power to impeach the judges, as it has to impeach the President, and in no other way can either be punished by either house of Congress. Will it be contended that the House of Representatives has any constitutional authority to institute an investigation into the conduct of the judges, except for impeachment or legislative purposes? Has it the right to institute an examination into the conduct and decision of the judges for mere speculative purposes? to defame the character of the judges, and bring the court into disrepute? Then, if the House cannot thus act towards the judges, how can it towards the President? The same power exists as to both. Investigations may be instituted looking to the impeachment of either, or to remedial legislation, and in either case the conduct of the President or the judges may alike be investigated. It may be argued that the important duties of the President and the magnitude of the inter-

ests of the people in his hands, justify their representatives in making such investigations ; but the same would be true of the courts. Life, liberty, and property, upon which the courts are daily called to act, should be, and doubtless are, quite as important to the people as any matters coming within the jurisdiction of the executive department.

The undersigned proposes to call attention to the resolutions of Mr. Covode, which were adopted by the House on the 5th of March, 1860. His first resolution is in the following words :

"Resolved, That a committee of five members be appointed by the Speaker for the purpose of investigating whether the President of the United States, or any other officer of the government, has, by money, patronage, or other improper means, sought to influence the action of Congress, or any committee thereof, for or against the passage of any law appertaining to the rights of any State or Territory ; also to inquire into and investigate whether any officer or officers of the government have, by combination or otherwise, prevented or defeated, or attempted to prevent or defeat, the execution of any law or laws now upon the statute-book ; and whether the President has failed or refused to compel the execution of any law thereof ; and that said committee shall investigate and inquire into the abuses at Chicago or other post offices, and at the Philadelphia and other navy yards, and into any abuses in connexion with the public buildings and other public works of the United States."

It is important that the object of this resolution should be ascertained. And what is it? Does it propose an impeachment? Certainly not ; for if it had, the mover doubtless would have said so. Instead, however, of declaring that he intended an impeachment, he even denies that he makes any *charge* against the President. In remarks made by him in the House on the 28th of March last he said :

" * * In the resolution which I offered I do not make the charge against the President. The President himself made the charge. He charges in his centenary letter to the people of Pittsburg that money has been used in carrying elections ; and I stepped forward to investigate the matter, and to see who used that money."*

"Mr. COVODE. Mr. Speaker, you will perceive that there is no definite and distinct charge against the President, but the President himself, as I stated, made a charge, and it was my wish to investigate the matter, and ascertain who had been guilty of this offence."

Other friends of the resolution argue that it is not intended as an impeachment, but only to see whether improper means have been used to influence the action of Congress. No one of its friends has been willing to avow that it looked to an impeachment ; then it is but fair to ascribe to it no such object.

And yet the charges insinuated in the resolution are the precise offences mentioned in the Constitution for which the President may be impeached. The resolution directs that the committee inquire whether the President of the United States, or any other officer of the government, has by " money, patronage, or other improper means, sought to influence the action of Congress," &c. ; or, in other words, whether the President has not attempted to bribe the members of Congress by the use of money. If these insinuations be true, then he should be impeached. The resolution, however, in its want of specifications, is unprecedented as an initiatory step to impeachment. Its insinuations—the mover denies that they are *charges*—are as vague as they can well be, and in that it violates the plainest principles of justice and law. There is no civilized country in which a citizen can be arraigned and put upon his trial for an alleged offence without having secured to him, by the law, proper information of the precise offence charged against him. He is entitled to know what he is required to

answer. The law, as well as justice, demands that the papers, the indictment or resolution, shall set forth his offence. Does the Covode resolution do that? It *insinuates* that the President has "by the use of money, patronage, or other improper means, sought to influence the action of Congress, or a committee thereof, for or against the passage of some law," &c. How vague and indefinite is this! When and where did the President make such attempt? What means did he use or attempt to use? Upon what member or members did he make the attempt? or with what committee or committees? and in relation to what bill or measure? These things, at least, should appear in the resolution, and why did they not? If there has been bribery, or any attempt at bribery, the mover of the resolution doubtless knew it. Then why did he not specify? For the reason that the insinuation is unfounded—that there is no truth in it. And hence, as none of the persecutors of the President had the boldness to make it as a direct charge, resort was had to the less manly mode of insinuation.

To base a prosecution, and arraign a citizen, who is either in office or out of office, upon such vague and indefinite accusations, even if they were presented as *charges*, is an outrage revolting to the sense of justice of all honorable men, and in this country will not be tolerated by even the most vindictive political opponent. Such are the rights of the citizen secured to him by the laws of the land, and administered through the instrumentality of the courts in all of the States. Why are they not also the rights of the President of the United States? Will he be denied rights so essential to the ends of justice, and which the laws secure to every other citizen? Can it be that a citizen who, by long and faithful service in the cause of his country—by a life, public and private, of the strictest integrity, whose character is free from just reproach—shall be denied rights granted and secured to every other citizen, merely because his walk has been such as to gain for him the confidence of his fellow-citizens, and because he has been by them placed in the most honorable political office known to the Constitution?

The undersigned regards it as appropriate to present an extract from a letter written by President Jackson, in January, 1837, to the chairman of a committee of the House of Representatives, asking it to be laid before that committee, in which he discusses the precise point presented in President Buchanan's recent message to the House. The views of that departed hero and statesman will be read with great interest by all who desire to arrive at just conclusions on the important issues growing out of the extraordinary movement of Mr. Covode in the House of Representatives. Speaking of a resolution which had but recently before the date of his letter passed the House of Representatives, directing an investigation into the condition and operation of the executive departments, as well as a resolution of the committee asking information of the President on the *charges*, and also of the vagueness of the charges that were insinuated in the resolution creating the committee, he said:

"For myself, I shall repel all such attempts as an invasion of the principles of justice as well as of the Constitution, and I shall esteem it my

sacred duty to the people of the United States to resist them as I would the establishment of a Spanish inquisition.

"If, after all the severe accusations contained in the various speeches of yourself and your associates, you are unwilling, of your own accord, to bring specific charges, then I request your committee to call yourself and your associates, and every other member of Congress who has made the general charge of corruption, to testify before God and our country whether you or they know of any specific corruption or abuse of trust in the executive departments; and if so, what it is. If you are able to point to any case where there is the slightest reason to suspect corruption or abuse of trust, no obstacle which I can remove shall be intervened to prevent the fullest scrutiny by all legal means. The offices of all the departments will be opened to you, and every facility furnished for this purpose.

"I hope, sir, we shall at last have your charges, and that you will proceed to investigate them, not like an inquisitor, but in the accustomed mode. If you either will not make specific accusations, or if, when made, you attempt to establish them by making freemen their own accusers, you will not expect me to countenance your proceedings. In the short period which remains of my official duty I shall endeavor, as I have heretofore endeavored, to fulfil the obligations of that oath of office by which I engaged 'to the best of my ability to preserve, protect, and defend the Constitution of the United States.' And for this and other reasons of the most solemn character, I shall, on the one hand, cause every possible facility consistent with law and justice to be given to the investigation of specific, tangible charges; and on the other, shall repudiate all attempts to invade the just rights of the executive departments, and of the individuals composing the same. If, after all your clamor, you will make no specific charges, or bring no proof of such as shall be made, you and your associates must be regarded by the good people of the United States as the authors of unfounded calumnies; and the public servants whom you have assailed will, in the estimation of all honorable men, stand fully acquitted."

The history of Congress discloses many applications to the House of Representatives for the impeachment of civil officers, and none of them justify the Covode resolution. In all of them the charges were required to be specific, and such as were not so were not entertained, and the House cannot justly depart from this practice.

If the resolution does not look to an impeachment, to what end does it look? If the insinuations contained in it be true, it is clearly the duty of the House to impeach; and if any member of the House believes them to be true, it is his duty—his sworn duty—to move an impeachment; and if he fail to do so, he is guilty of a palpable dereliction of duty. It cannot be that a representative discharges his full duty when he believes an officer of the government to be guilty of treason, bribery, or other high crimes and misdemeanors, without taking proper steps to have such officer punished as the Constitution provides; and if, on the other hand, such resolution be presented to the House by a member who believes its insinuations to be untrue,

such member justly merits the indignant scorn of an honest public for such flagrant betrayal of public trust.

This resolution cannot contemplate legislation. Its friends make no such claim for it, while the resolution itself forbids any such idea. What legislation could likely be enacted upon such report as this committee could make? Suppose it should report the charges to be untrue, what law would thereby become necessary? None. Suppose, however, that the committee should find that an attempt had been made by the President, with money, to bribe the members of Congress, what law should Congress then pass? No additional legislation would be required, for in that case the Constitution furnishes the most ample remedy—impeachment—and Congress would not have the constitutional power to change it. The Constitution provides how and for what offences the President of the United States may be impeached, and Congress could not add to the offences, or change the mode of trial or the character and extent of punishment.

It is a mistake to say that the investigation in the 34th Congress which resulted in the expulsion of some of its members was instituted without a distinct specific charge having been first made. By reference to the proceedings on that occasion it will be seen that while the resolution was pending, and before any vote had upon it, Mr. Paine, a representative from the State of North Carolina, rose in his place and said :

“I say now distinctly upon this floor that there is not an entire want of truth in the allegations contained in that article ; that a distinct proposition has been made by a member of this House, and in regard to the Minnesota land bill, that \$1,500 would be guaranteed to a member for his vote for that bill, and when the committee is raised, and I am called upon, I will give my evidence before the committee.”

Mr. Paine made a positive and distinct charge, upon his own responsibility, and upon the charge thus made the resolution was voted and the committee ordered. If the same course had been pursued in the present case it would have been unobjectionable. If the resolution had made specific charges instead of vague insinuations, and the mover had said to the House that he even believed they were true, there would have been no opposition to it.

There is, however, but little analogy between an impeachment of an officer by the House and a proceeding by the House for the punishment of one of its own members. It is true the party accused has a right in either case to specific charges and a proper opportunity for his defence. The House can punish its members for disorderly behavior, and in the case of an offending member it has the *sole* power. It makes the charge, conducts the trial, pronounces the judgment, and inflicts the punishment. It has no such authority in an impeachment. In the case of an impeachment it investigates the charges, finds the impeachment, and sends its articles to the Senate, where the case is tried.

The undersigned asks attention to the following additional extract from the debate in the House on the President's message :

“What does the President of the United States gravely ask us to do in the message which has just been read ? That this high judicial body shall find an impeachment upon mere rumor. *Shall we, upon the mere rumors which are circulating in the newspapers and upon the streets, find an impeachment ?* The very necessity of the case implies that we have a right to

investigate all charges made in the public prints and elsewhere. If it is alleged that the President has been seriously and improperly connected with certain transactions, we have a right in this House to inquire into the probable truth of these things. If we find that they are probably true, then it is our duty to prefer articles of impeachment against the President at the bar of the Senate."—*Mr. Sherman, of Ohio.*

It is quite difficult to believe that an unbiased mind can assent to the propositions contained in the above extract. The undersigned had supposed, and yet believes it to be beneath the dignity of a grave legislative body, or a "*high judicial body*," to act or attempt to act "upon the mere rumors which are circulating in the newspapers and upon the streets." No case of impeachment has ever been instituted upon *mere newspaper* or *street rumor*, or *scandal*; and the undersigned is not aware that such an attempt has ever been made, unless the present be such an one. But if a House of Representatives should ever be so blinded by partisan feeling as to lose sight of its own proper dignity and self-respect, and institute an impeachment upon *mere street rumors*, such rumors should be so shaped in the resolution proposing the impeachment as to make a positive charge upon which the officer implicated could be tried, and if guilty, punished. The undersigned intends to say that if a rumor, however vague and irresponsible, is to be dignified by the notice of the House of Representatives, the officer accused has a right to demand the judgment of the proper tribunal.

Mr. Covode's second resolution is as follows :

"*And resolved further*, That, as the President, in his letter to the Pittsburg centenary celebration of the 25th of November, 1858, speaks of the employment of money to coerce elections, said committee shall inquire into and ascertain the amount so used in Pennsylvania, and any other State or States; in what districts it was expended, and by whom, and by whose authority it was done, and from what source the money was derived, and to report the names of the parties implicated; and that, for the purpose aforesaid, said committee shall have power to send for persons and papers, and to report at any time."

It will require but a brief examination to enable the House to understand its object. It cannot mean an impeachment, for it makes no charge. The House can only impeach *civil officers of the United States*, and *they* do not seem to come within the purview of the resolution. This being true, it is but reasonable to conclude that it has *some other object*.

It is even more absurd to suppose that this resolution looks to legislation. What legislation? Suppose money has been used in elections *within the States*. Can Congress, by law, prevent it? Can Congress pass a law to punish as a crime even the corrupt use of money in elections within the States? Such a position will hardly find an advocate in the House. To prevent such use of money is a matter of *State* jurisdiction, and must be suppressed by *State* laws, and not by congressional action.

The House, then, finds itself in this condition: it has ordered a committee of investigation, under the press of the previous question. No member was allowed to debate or to propose an amendment to the resolution, and in that extraordinary and unusual mode for such resolutions it was passed without explanation.

The committee has power to send for witnesses without regard to distance or expense; and in the exercise of that power it may, and

doubtless will, involve the government in the expenditure of thousands of dollars, when it is, in the judgment of the undersigned, beyond controversy, that no constitutional action by Congress is contemplated by the resolution. Its inquiries are directed to the use of money in elections *in the States*. When the resolution was pending no one was permitted to ask its meaning, and why such unprecedented inquiries should be made by the House, or what election was meant—whether that of President of the United States, or senators, representatives, governors, members of State legislatures, county, or city elections. It is so vague in its terms that nobody can understand the meaning of the resolution from its reading, and it fails to distinguish between the corrupt and legitimate use of money, or whether used by an officer or private citizen.

If the committee shall undertake to bring before the House and expose the legitimate transactions of private citizens, then will it transcend its authority; for even admitting that such would be the true construction of the resolution, the power does not follow; the House itself has no such rightful authority, and, of course, cannot delegate it to a committee. But will the House allow such construction of its resolution? And if such be its proper construction, then the question presents itself, whether it will allow such resolution to remain unrescinded, subjecting the private citizen to embarrassment and his private transactions to exposure, and for no good end—for nothing that Congress can accomplish calculated to advance the public interests; and, indeed, it may fairly be believed, without doing violence to the terms of the resolution, that nothing was intended outside of discreditable party schemes and movements to accomplish party ends and advantages. Will the House allow this extraordinary power to be used to oppress the private citizen? Will it countenance and encourage or force upon the government the expenditure of large sums of money for mere partisan political purposes, which must be the *result* if not the *object* of this proceeding?

In conclusion, the undersigned declares that, in his opinion, the positions taken by the President in the message referred to the committee are right, and that the protest made by him against the action of the House has a solid foundation in the provisions of the Constitution of the United States, and in those great principles which underlie every well-ordered system of law hitherto established for the administration of justice.

GEO. S. HOUSTON.

MINORITY REPORT.

Mr. TAYLOR presented the following views of the minority.

The undersigned member of the Committee on the Judiciary, to whom was referred the message of the President, in which he protests against the action of the House in adopting the first two clauses of certain resolutions passed on the fifth day of March last, respectfully submits the following minority report:

The resolutions adopted by the House on the fifth day of March were in the following words:

“Resolved, That a committee of five members be appointed by the Speaker, for the purpose of investigating whether the President of the United States, or any other officer of the government, has, by money, patronage, or other improper means, sought to influence the action of Congress, or any committee thereof, for or against the passage of any law appertaining to the rights of any State or Territory; also, to inquire into and investigate whether any officer or officers of the government have, by combination or otherwise, prevented or defeated, or attempted to prevent or defeat, the execution of any law or laws now upon the statute-book, and whether the President has failed or refused to compel the execution of any law thereof; and that said committee shall investigate and inquire into the abuses at the Chicago or other post offices, and at the Philadelphia and other navy yards; and into any abuses in connexion with the public buildings and other public works of the United States.

“And resolved further, That as the President, in his letter to the Pittsburg centenary celebration of the 25th of November, 1858, speaks of the employment of money to coerce elections, said committee shall inquire into and ascertain the amount so used in Pennsylvania and any other State or States; in what districts it was expended, and by whom, and by whose authority it was done, and from what source the money was derived, and to report the names of the parties implicated; and that, for the purpose aforesaid, said committee shall have power to send for persons and papers, and to report at any time.”

This message relates only to the two first clauses of the first resolution, which are recited in it, and are as follows:

“Resolved, That a committee of five members be appointed by the Speaker, for the purpose [first] of investigating whether the President of the United States, or any other officer of the government, has, by money, patronage, or other improper means, sought to influence the action of Congress, or any committee thereof, for or against the passage of any law appertaining to the rights of any State or Territory; [and second,] also to inquire into and investigate whether any officer or officers of the government have, by combination or otherwise, prevented or defeated, or attempted to prevent or defeat, the execution of any law or laws now upon the statute-book, and whether the President has failed or refused to compel the execution of any law thereof.”

The President takes no exception to the remaining portions of the first resolution, which relate to alleged abuses in post offices, navy yards, public buildings, and other public works of the United States, because, he says, “in such cases inquiries are highly proper in themselves, and belong equally to the Senate and the House, as incident to their legislative duties,” “to enable them to provide the legislative remedies for any abuses which may be” found to exist. Nothing whatever is said by him in this message with respect to the second resolution. His protest is made against the two first clauses of the

first resolution, which are recited in it, and he expressly declares that he confines himself "exclusively to those two branches of the resolution."

These two clauses are accusatory in their nature; and regarding them in that light, the President has seen fit to avail himself of his constitutional power of communicating with the House, to lay before it his objections to the proceedings instituted by the House against him and other officers of the government by their adoption. In doing this, the President says, in substance, that the House of Representatives possess no power under the Constitution over the accusatory portion of the resolution, except as an impeaching body. With that exception, the President asserts "the Constitution has invested the House of Representatives with no power, no jurisdiction, no supremacy whatever over the President." In all other respects, he continues, "he is quite as independent of them as they are of him." The President afterwards proceeds to notice the character of the investigation which the resolution proposes to institute, and having noticed the fact that it is directed to no specific charge or charges, but whether the President has, by "money, patronage, or other improper means, sought to influence," not the action of any individual member or members of Congress, but "the action" of the entire body "of Congress" itself, or "any committee thereof," and that the investigation which the resolution proposes to institute "is as vague and general as the English language affords words in which to make it," so that he can have no "glimmering of the nature of the offence to be investigated" under the accusation, he says, in substance, that the principles recognized in "the Constitution of the United States, and of the several States," which require that, in cases of prosecution for any offence, the person prosecuted "shall be informed, in the very beginning, of the nature and cause of the accusation against him," and "other principles, not less sacred, presenting an impenetrable shield" for the protection of every citizen against false charges, "have been violated in the prosecution instituted by the House of Representatives against the executive branch of the government," and makes his "solemn protest" against their proceedings "in the name of the people of the United States, because they are in violation of the rights of the co-ordinate executive branch of the government, and subversive of its independence;" because they are calculated to foster false accusations "incapable, from their nature, of being disproved;" and because such proceedings, if unresisted, "would establish a precedent dangerous and embarrassing to all" his "successors, to whatever political party they might be attached."

The question thus presented to the House by the protest of the President, though one of the gravest importance, is yet restricted within very narrow limits. There can be no real difference of opinion as to the constitutional position of the two great departments of the government—the legislative and executive—with respect to each other. The power of the House to institute the inquiries necessary to bring abuses in the administration of our public affairs to light, with a view to the punishment of those who have been guilty of them, and to the prevention of similar abuses in the future by remedial legisla-

tion, when that is practicable, is fully conceded by the President. Upon that point there neither is nor can be any dispute. The questions actually presented by the protest the undersigned believes to be these and these alone: 1st. Has the House an unlimited power to institute and carry on investigations of any kind and for any purpose according to its own mere will and pleasure; or is it restrained and controlled in the exercise of the power vested in it by the operation of the great principles of law everywhere recognized throughout our common country, where the rights of individuals are concerned? and 2d, If it is so restrained and controlled, then was the action of the House, in adopting the resolution complained of by the President, in violation of those great principles of law, or in conformity with them?

The undersigned cannot for a moment conceive that there is any room for doubt upon the first question. Our government is a government of law. It was the design of its framers that everything connected with its action should be regulated, as far as practicable, by positive constitutional provision or legislative enactment. There is no such thing in our whole system as a grant of unlimited, arbitrary power. One great object had in view in its construction was to give security to the citizen; and to that end our national and State constitutions, and our statute-books, are filled with provisions to shield and protect him against the approaches of oppression, and to furnish him with remedies against invasions upon his rights. These provisions were intended to operate everywhere within our boundaries for his security and protection, and the barriers which they interpose against injustice should be as effectual for his defence against wrong coming from one quarter as from another. The functions of the House of Representatives with respect to investigations into abuses in the administration of our affairs, and into the misconduct of our public officers, are in their nature judicial, and it is as much the duty of members of the House to be guided by the principles of these legal and constitutional provisions, when they are called on to act on questions which concern the personal rights of men, as if they were formally invested with the judicial ermine. This has been the common judgment of the whole American people from the very foundation of the government, and I cannot for a moment conceive that any one can have a doubt on the subject. Considering this question as settled beyond all controversy, I shall now proceed to an examination of the second one, viz: Was the action of the House, in adopting the resolution complained of by the President, in violation of those great principles, or in conformity with them?

The right of the House to enter upon an inquiry as to whether an offence has not been committed, or if a particular person is not guilty of a crime, is not the mere creature of an arbitrary discretion. The power of the House, like that of a court over such a subject, can only be exerted upon a case made. The power of a court is one thing, the right to exercise that power is another and quite a different thing. And it is the same with the judicial power of the House. Before the right to exercise it in an inquest of a criminal nature can exist, there must be good cause shown for it, by evidence of some kind sufficient to give rise to a reasonable suspicion as to the perpetration of an

offence or the guilt of the individual. In the absence of any such evidence the right does not exist, and the institution of an inquiry would be improper. But what would be merely improper in one case might be highly censurable in another. A roving commission to inquire into possible offences, without any reasonable ground for the belief that offences had been committed, would certainly be improper; but to raise a committee to inquire if a particular person, designated by name, had not been guilty of a certain specified crime, when no evidence of any kind was before the House to give rise to any suspicion against him, would be more than improper: it would be an outrage. An inquiry of that kind, made with respect to any one by the public authority, implies from its very nature that there is reason to believe him guilty.

Our laws are not alone framed to protect the persons and property of our citizens. They are also designed to secure them in the possession of their good names; and it is with that object that when a private person, upon the pretence of a desire to enforce the criminal law, throws upon another an imputation of having committed a crime, without having had any reasonable ground of suspicion, the act is regarded as a wrong, and the law gives redress to the one falsely charged by punishing the wrong-doer, or mulcting him in damages. But no such protection is given to the citizen against similar action on the part of the House. His only safeguard against an unjust or oppressive exercise of its power grows out of the obligation imposed on its members, in the forum of conscience, to make their action, in cases affecting his reputation or his personal rights, conform to those great principles of law which are everywhere recognized in the administration of justice between man and man. Owing to the peculiar character of the House as a political body, intrusted with a certain portion of the functions of government, these principles can be enforced neither against the House in its collective capacity, nor through the persons of its members by penal sanctions. Their operation for his protection can only be made effective through the voice of reason; and it, therefore, becomes of vital importance to the House itself, and to the people of the whole United States, that individual members should not hesitate to expose such action by the expression of their individual opinion against it when such cases arise.

Such a case, in my opinion, has now arisen; and it is an extraordinary one. It is not a case of wrong done to a private person; it is not even a case of wrong done to a high public officer. The wrong is done to the Chief Magistrate of the nation; to one who constitutes an entire department of the government, which is made co-ordinate with the Congress itself by the Constitution. It is disagreeable and unpleasant for a representative of a portion of the American people to differ in opinion from a majority of his brethren, when the expression of that difference of opinion necessarily involves a censure upon the action of that majority. But it is a duty we owe to our own constituents, to the people of the United States, to the representatives who may come after us, to the President in his own person, to the executive department of the government, and to the Constitution, to give a full and free expression to that opinion, and I shall, therefore, proceed to do it with the most perfect freedom, but without intending

any disrespect to the majority, or to any individual member of that majority.

The clauses of the resolution against the adoption of which the President protests in the message before us, it will be remembered, are in the following words :

"Resolved, That a committee of five members be appointed by the Speaker, for the purpose of investigating whether the President of the United States, or any other officer of the government, has, by money, patronage, or other improper means, sought to influence the action of Congress, or any committee thereof, for or against the passage of any law appertaining to the rights of any State or Territory; also to inquire into and investigate whether any officer or officers of the government have, by combination or otherwise, prevented or defeated, or attempted to prevent or defeat, the execution of any law or laws now upon the statute-book, and whether the President has failed or refused to compel the execution of any law thereof."

It has been said, in justification of the course of the majority of the House in adopting these clauses of the resolutions of the 5th of March, that two members of the House were expelled during the 34th Congress upon charges more vague and indefinite than those implied in these clauses; and upon this ground, those saying so, would have it inferred that the action of the House in the case referred to was of the same character with that had when the resolutions of the 5th of March were adopted. But this is not so. In that case, no person was named in the resolution; and a specific charge was made against the unknown persons inculpated. That charge was contained in a preamble and resolution in the following words :

"Whereas certain statements have been published charging that members of this House have entered into corrupt combinations for the purpose of passing and of preventing the passage of certain measures now pending before Congress: Therefore—

"Resolved, That a committee, consisting of five members, be appointed by the Speaker, with power to send for persons and papers, to investigate said charges; and that said committee report the evidence taken, and what action, in their judgment, is necessary on the part of the House, without any unnecessary delay."

The charge thus made was a specific charge, for it stated a distinct fact constituting the alleged offence—that is, first, a corrupt combination of members; and second, the time when and place where the fact transpired, viz: during the then session of Congress, and in the House itself. But though this was so, and the papers of the day teemed with such charges, still the House refused to proceed upon them and raise a committee to inquire into their truth until probable cause was shown by a credible witness. The House did not adopt the resolution and enter upon the inquiry until a member rose in his place and stated, under all the responsibilities of a representative, that a member had made a corrupt proposal to him of the character charged, and that he had good cause to believe, and did believe, that there was such a combination of members.

And how is it in the proceedings recently adopted by the House against which the President has made his solemn protest? No distinct fact constituting an offence is set forth. The inquiry instituted is limited to no period of time—to no class of persons—to circumstances transpiring at no particular place; but his whole official life

is made the subject of investigation by the House, through a committee clothed by it with extraordinary and inquisitorial powers, when not one particle of evidence, not one syllable of testimony inculcating him in any degree whatever had been placed before it.

But the proceedings of the House in the case of the expulsion of members during the thirty-fourth Congress has no analogy whatever with those now instituted by it against the President. The House, by the Constitution, is permitted to determine for itself the rules of its proceedings, and has the sole power of punishing its members for misconduct in their representative capacity. It is not so, however, with respect to the incumbent of the presidential office. The House has no peculiar authority over him. He is selected for the exercise of that great trust by the direct votes of the whole American people. He is the representative of the sovereignty of the United States in their intercourse with foreign nations. His duties are prescribed with exactness in the Constitution; and, by the provisions of that instrument, the executive power, to be exercised by him under its authority, is co-ordinate with that of the legislative department vested jointly in the two houses of Congress.

Under such circumstances, it is obvious to all that the public interest, and, indeed, the very success of our scheme of government, requires that the magistrate, to whom is intrusted the discharge of the many important and delicate duties devolved on the presidential office, should be protected from all interference in such a manner that he may at all times be perfectly free to exercise the discretion vested in him by the Constitution and laws whilst acting within the scope of the powers delegated to him under their authority. And this is what the Constitution has done. It makes the President completely independent of the other departments of the government whilst he acts within the line of his duty; and it gives no right to any other department of the government, or to any man or any body of men, to institute an investigation into his official conduct, unless it be with a view to his removal "from office on impeachment for" "treason, bribery, or other high crimes and misdemeanors." When there is any reason to believe that the President of the United States has corruptly administered the duties of his great place in violation of his oath of office, it is the duty of every man, whether in a private or a public station, to make known the facts, justifying such a belief, which have come to his knowledge, with a view to his trial and conviction under the authority of the Constitution. But it is equally true that no one, without incurring just censure, can question or reflect upon the official conduct of the President by imputing to him the commission of a crime, when he has no personal knowledge of any fact authorizing such an imputation, and no evidence of the kind has been given by any other person. And if this be true with respect to ordinary individuals, how much more true is it that such conduct is unbecoming a representative of the American people, or in a House of Representatives acting in its collective capacity through the votes of a majority of its members? Public bodies, like individuals, in their intercourse with each other, are bound to the observance of all the proprieties of life. This obligation, which is imposed on them in the public interest, was lost sight of by the House when it threw an imputation upon the official

integrity of the President without having any evidence on the subject before it; and the undersigned is constrained to say that, in his opinion, that action of the House was a breach of all those rules of decency and decorum, which should obtain between different departments of the same government, for the preservation of that harmony and kind feeling between them which are essential to the easy and proper transaction of the public business.

It is the imperative duty of the House to institute proceedings against the President, if there is any reasonable ground for the belief that he has been guilty of the violation of his official duty under the Constitution. When any fact is made known by any competent evidence which is calculated to raise against him a presumption of that kind, no matter how slight that presumption may be, I shall be among the first to demand action against him. But is there any proper foundation for the inquiry into the conduct of the President, which has been authorized by the House? The undersigned is compelled to say that there is not. Nay, more, I am constrained to declare, and I do it with pain, that an examination of the resolutions adopted by the House, coupled with the circumstances accompanying their presentation and passage, afford just grounds, in my opinion, for the belief that the proceeding against the President, which is the subject of his protest, was not instituted in good faith, and that it is not based on any ground, real or pretended, brought to the notice of members, which would afford even a color of excuse for engaging in the inquiry contemplated. And this I will now proceed to show.

The House, in its action on the 5th of March, adopted, under the pressure of the previous question, two resolutions—one containing the clauses which are the subject of the President's protest, and another (the second resolution) in the following words:

“And resolved further, That as the President, in his letter to the Pittsburg centenary celebration of the 25th of November, 1858, spoke of the employment of money to coerce elections, said committee shall inquire into and ascertain the amount so used in Pennsylvania and any other State or States; in what districts it was expended, and by whom, and by whose authority it was done, and from what source the money was derived, and to report the names of the parties implicated; and that, for the purpose aforesaid, said committee shall have power to send for persons and papers, and to report at any time.”

The statement contained in the letter of the President, as set forth in this resolution, is the only ground on which the whole inquiry contemplated in the two resolutions is predicated. No other ground for the action of the House was alleged at the time by the mover of the resolutions. No evidence of any kind beyond the alleged statement contained in this letter was before the House. Nor was it pretended by the mover of the resolutions that there was any other. Well, what does this amount to? The statement of the President, if any such was made, was contained in a letter written in his private capacity, in which he condemned the use of money for carrying elections, which, he intimated, was now a frequent practice, and was fast becoming a great public evil. This statement, if it could have been properly made the basis of action on the part of the House, would

have placed the President in the attitude of one making a charge to the effect that money had been improperly employed as a means for controlling our popular elections. If Congress has the authority to enter into the State of Pennsylvania and the other States of the Union, as the resolution contemplates, for the purpose of inquiring into violations of their election laws, and exerting a general supervision and control over their citizens with respect to their own elections, such a charge, if credited by the House, would not only justify but require the adoption, on the part of the House, of proper measures to secure a thorough and searching investigation into its truth.

And how would such an investigation have been gone into on this charge if it had been the intention of a majority of the House to enter upon it in good faith? The first step taken would necessarily have been to call upon the President for information as to the facts on which the charge made by him was founded, and for the names of the witnesses by whose testimony these facts could have been substantiated. This would have necessarily been the first step taken by the House if it really designed basing any serious proceedings on this alleged charge with a view to the exposure of the corrupt influences heretofore brought to bear upon our elections, and applying a remedy to them for the future. But it was not taken. On the contrary, whilst this charge, said to have been made by the President, is the only avowed ground for any action on the subject on the part of the House, the first step taken by the House is to adopt a resolution, to do what? Why, to raise a select committee of five, with authority to send for persons and papers, "for the purpose of investigating whether the President of the United States" "has, by money, patronage, or other improper means, sought to influence the action of Congress, or any committee thereof, for or against the passage of any law," &c.

The only reason assigned for raising the committee was, that the President had made a charge that money had been improperly used in elections; and the first instruction given to the committee is to "investigate" the conduct of the President throughout his whole official life. That is, the first step taken by the judge, on the pretence of acting upon an accusation, is to accuse the accuser, and make extraordinary provision for raking up every species of testimony against him! I will here venture to assert that a parallel to this proceeding of the House cannot be found in the whole range of history. And why was this done? Who has charged the President with the corrupt use of money, or of the patronage of his office, to influence the action of Congress? What are the facts which justify the imputation, implied in the adoption of the first resolution, upon a man whose character, during a long life spent in the service of his country, has been unsullied by a single stain? No such facts have been communicated to the House. The mover of the resolution did not even pretend at the time of moving it that any such facts existed. Why, then, we would ask, has an inquisition into the whole official life of the President been authorized without any foundation for it on legal or constitutional grounds, and in palpable violation of the principles of common justice? It certainly cannot be for any constitutional object. And then may it not with propriety be said that it is to

throw obloquy on the Chief Magistrate of the nation, with a view to secure some advantage to a political party in the great contest which is now approaching?

If the authority given in the first clause of the first resolution, "for the purpose of investigating whether the President of the United States" "has, by money, patronage, or other improper means, sought to influence the action of Congress," &c., was given by the House on the ground that there was good reason to believe that he had employed money, or the patronage of his office, to influence the action of Congress, then the House has failed to discharge its duty to the people under the Constitution. If the House acted on that opinion, in place of the action taken, it was its imperative duty to have instituted proceedings with a view to the removal of the President; for the employment of money and of official patronage, to influence the action of Congress, is bribery, and that is one of the very offences enumerated in the Constitution, for the commission of which it is declared the President shall be removed from office. And how is this to be done? In the manner provided for in the resolution against which the President has made his protest? Not at all. To find any precedent for that we must go back to the arbitrary proceedings of an English Star Chamber, or to the secret inquisition of a Venetian Council of Ten. No. It is to be by proceedings worthy of the age in which we live—in conformity with the settled practice of the country in which it is to be carried on, and in accordance with the immutable principles of justice.

The President of the United States, as well as all other civil officers, can be removed from office only on conviction of treason, bribery, or other high crimes and misdemeanors, upon a trial before the Senate on an impeachment preferred by the House of Representatives. And what ought to be the basis of proceedings by the House of Representatives when it is called on to act as the grand inquest of the nation? We have had such a number of instances in our history, in which public officers have been impeached by the House of Representatives, that this can no longer be regarded as an open question. In no one instance, since the foundation of the government, has the House of Representatives instituted any preliminary proceeding with a view to the impeachment of a public officer, unless it was based upon a memorial or petition presented by some credible person, or by a resolution presented by a member, who set forth the specific facts charged on which the impeachment was demanded, with reasonable minuteness and precision, and vouched for their truth; and this is a rule which is just both to the public and to the accused. It is just to the public, because it enables the representatives of the people to decide whether the charges set forth are of such a nature as to justify an investigation; and it is just to the accused, because it gives him an opportunity to meet the charges against him and prove them false.

But the course adopted in the proceeding against the President violates this rule in both particulars. By dispensing with a statement of the particular facts charged against the President, no representative is in a position to decide whether there are or are not any charges actually made against him which require looking into: whilst, on the

other hand, this very circumstance, that there is no particular fact alleged against him, renders it absolutely impossible for the President to meet the charge of bribery, which the adoption of the resolution necessarily implies is now made against him, or to provoke the judgment of the constitutional tribunal upon it so as to obtain an acquittal from the charge. Can another case like this be found in the whole history of the United States? Is there any court, State or federal, presided over by any fair-minded man, that would tolerate for a single instant the application of such a measure of justice to the humblest person under its jurisdiction as that already measured out by the House of Representatives to the Chief Magistrate of the nation? And what, I now ask, will be the judgment of the world upon this whole proceeding, when the animosities and bitterness of contending parties shall have passed away? Can any one doubt that judgment? Will it not be believed that the desire to do something—anything—which would be likely to advance party interests, had made a majority of the representatives of the American people so far forgetful of the right that they were made willing instruments to throw discredit on a distinguished opponent by casting on him an unjust imputation, and that, too, by the adoption of a course unknown to the Constitution and to the principles of law, and which was of such a character as enabled the real authors of the calumny to escape all the consequences which usually attach to those making a groundless accusation?

Will it be possible for any unbiased mind to arrive at a different conclusion? Was the allegation with respect to the statement, said in the resolution to have been contained in the President's "centenary celebration" letter, anything but a pretext for raising a committee to assail the President? Was the second resolution, which purports to be based on it, anything but a pretext to get the power necessary to carry on the assault provided for in the first resolution? There is no law of the United States regulating elections in the different States. There are no laws of the United States punishing the improper use of money in elections in the different States. The whole jurisdiction and control over the subject of elections is in the several States. It is true, that by the laws of the several States the improper use of money in elections is prohibited, and that offences against their prohibitions are punished by them with severe penalties. But such offences are offences against the State laws; they are subject to prosecution by the State authorities; they are to be punished by the action of the State courts; and if new remedies are required for the prevention of abuses at these elections, it is clear that they are to be provided for and applied through the action of State legislatures.

It is the theory of our government that the people of the different States are competent to manage their own local affairs. If this be true in fact, it is difficult to understand on what principle the investigation provided for in the second resolution adopted on the 5th of March is based. The House has no authority to inquire into elections holden in the States except in so far as it is necessary to enable it to "judge of the elections, returns, and qualifications of its own members." The election of presidential electors is, by an express provision of the Constitution of the United States, placed under the sole and exclusive

control of the several States. It can hardly be presumed, in the face of all these facts, that it was really the intention of the House to enter into the State of Pennsylvania, and other States, with a view to the prosecution of the inquiries provided for by the terms of the second resolution. Such a proceeding would be an invasion of the rights of the States and a usurpation of power on the part of the House. No one can for a moment suppose that this was the object of the majority of the House. What, then, was it? It is hardly possible to avoid the conclusion that the real object was to obtain the power to institute the extraordinary inquisition into the whole official life of the President, which is provided for in the first resolution.

Before a majority of the House deliberately decides to persevere in the course entered on by the adoption of these resolutions, it will be well for them to examine the resolutions and consider well where this course is to lead. The resolutions not only authorize an inquisition, in the nature of a criminal prosecution, into the whole official life of the President, and of every officer under the government, without any specific charge made or distinct fact stated on which a charge could be made, but it also arms those employed in making this inquisition with "power to send for persons and papers;" or, in other words, to compel, at their discretion, every person within the limits of the United States to submit all the papers in his possession to their inspection and perusal at their mere will and pleasure. If the institution of criminal proceedings against individuals, without any reasonable grounds of suspicion having been shown, displays a sufficient disregard of the rights of the citizen under the law, what must be thought of a proceeding which invests a majority of the committee of the House, employed in the prosecution of such an inquisition, with a power, to be exercised at their discretion, to call for and compel the production of the private papers of every citizen, and that, too, in the face of the provision of the 4th article of the amendments of the Constitution of the United States, which declares that "the rights of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated; and" that "no warrants shall be issued but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the person or things to be seized."

The first approaches of arbitrary power are always insidious, and are carefully veiled under specious pretences. If proceedings of the character of this just instituted by the House are to be tolerated by the American people, and pass into precedent, what becomes of the boasted immunities of the citizen? They disappear at once and forever under the arbitrary power which may at any time be exerted for his oppression, whether he be in a private or a public station, at the will of a mere majority of the House of Representatives. It has been truly said that the teaching of all history shows that "eternal vigilance is the price of liberty;" and it will be well for the American people and their posterity, if they are not forgetful of the lesson in this crisis of our affairs.

In conclusion, the undersigned declares that, in his opinion, the positions taken by the President in the message referred to the com-

mittee, and which were stated in substance at the opening of this report, are right; and that the protest made by him against the action of the House has a solid foundation in the provisions of the Constitution of the United States, and in those great principles which underlie every well-ordered system of law hitherto established for the administration of justice.

MILES TAYLOR.

NOTE.—There was so little time allowed us to prepare a minority report that, owing to the distance between our residences, it was impossible for us to get together and prepare a joint one; and in consequence of this, though agreeing entirely in our views on the subject of the protest made by the President in his message of the 29th March, 1860, we were compelled to prepare separate reports, in order to be able to report in time to have our views presented at the same time with those embodied in the report of the majority.

GEO. S. HOUSTON.
MILES TAYLOR.

THIRTY-SIXTH CONGRESS—FIRST SESSION.

CONGRESS OF THE UNITED STATES.

IN THE HOUSE OF REPRESENTATIVES,

March 5, 1860.

On motion of Mr. COVODE,

Resolved, That a committee of five members be appointed by the Speaker, for the purpose of investigating whether the President of the United States, or any other officer of the government, has, by money, patronage, or other improper means, sought to influence the action of Congress, or any committees thereof, for or against the passage of any law appertaining to the rights of any State or Territory; and also to inquire into and investigate whether any officer or officers of the government have, by combination or otherwise, prevented and defeated, or attempted to prevent or defeat, the execution of any law or laws now on the statute-books, and whether the President has failed or refused to compel the execution of any law thereof; that said committee shall investigate and inquire into the abuse at the Chicago or other post offices, and at the Philadelphia and other navy yards, and into any abuses in connexion with the public buildings and other public works of the United States.

Resolved further, That as the President, in his letter to the Pittsburg centenary celebration of the 25th November, 1858, speaks of "the employment of money to carry elections," said committee shall inquire into and ascertain the amount so used in Pennsylvania and any other State or States, in what districts it was expended, and by whom, and by whose authority it was done, and from what sources the money was derived, and report the names of the parties implicated; and, for the purpose aforesaid, said committee shall have power to send for persons and papers, and to report at any time.

Ordered, That Mr. Covode, Mr. Olin, Mr. Train, and Mr. James C. Robinson be appointed said committee.

Attest:

J. W. FORNEY, *Clerk*.

MESSAGE OF THE PRESIDENT OF THE UNITED STATES, PROTESTING AGAINST
CERTAIN PROCEEDINGS OF THE HOUSE OF REPRESENTATIVES.

To the House of Representatives:

After a delay which has afforded me ample time for reflection, and after much and careful deliberation, I find myself constrained by an imperious sense of duty, as a coördinate branch of the federal government, to protest against the first two clauses of the first resolution adopted by the House of Representatives on the 5th instant, and published in the *Congressional Globe* on the succeeding day. These clauses are in the following words: "*Resolved*, That a committee of

five members be appointed by the Speaker, for the purpose, 1st, of investigating whether the President of the United States, or any other officer of the government, has, by money, patronage, or other improper means, sought to influence the action of Congress, or any committee thereof, for or against the passage of any law appertaining to the rights of any State or Territory; and 2d, 'also to inquire into and investigate whether any officer or officers of the government have, by combination or otherwise, prevented or defeated, or attempted to prevent or defeat, the execution of any law or laws now upon the statute-book; and whether the President has failed or refused to compel the execution of any law thereof.' "

I confine myself exclusively to these two branches of the resolution, because the portions of it which follow relate to alleged abuses in post offices, navy yards, public buildings, and other public works of the United States. In such cases inquiries are highly proper in themselves, and belong equally to the Senate and the House as incident to their legislative duties, and being necessary to enable them to discover and to provide the appropriate legislative remedies for any abuses which may be ascertained. Although the terms of the latter portion of the resolution are extremely vague and general, yet my sole purpose in adverting to them at present is to mark the broad line of distinction between the accusatory and the remedial clauses of this resolution. The House of Representatives possess no power under the Constitution over the first or accusatory portion of the resolution, except as an impeaching body; whilst over the last, in common with the Senate, their authority as a legislative body is fully and cheerfully admitted.

It is solely in reference to the first or impeaching power that I propose to make a few observations. Except in this single case, the Constitution has invested the House of Representatives with no power, no jurisdiction, no supremacy whatever over the President. In all other respects he is quite as independent of them as they are of him. As a coördinate branch of the government, he is their equal. Indeed, he is the only direct representative on earth of the people of all and each of the sovereign States. To them, and to them alone, is he responsible whilst acting within the sphere of his constitutional duty, and not in any manner to the House of Representatives. The people have thought proper to invest him with the most honorable, responsible, and dignified office in the world; and the individual, however unworthy, now holding this exalted position, will take care, so far as in him lies, that their rights and prerogatives shall never be violated in his person, but shall pass to his successors unimpaired by the adoption of a dangerous precedent. He will defend them to the last extremity against any unconstitutional attempt, come from what quarter it may, to abridge the constitutional rights of the Executive, and render him subservient to any human power except themselves.

The people have not confined the President to the exercise of executive duties. They have also conferred upon him a large measure of legislative discretion. No bill can become a law without his approval, as representing the people of the United States, unless it shall pass after his veto by a majority of two-thirds of both houses. In his legis-

